FARAD CONTINUATION SHEET

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1310 OF 2004

IN

FIRST APPEAL NO. 485 OF 2004

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's order

Shri N.R. Bubra, Advocate for Appellants.

Shri K.K. Tated, AGP for State.

Shri P.N. Joshi, Advocate for Respondents.

CORAM: A.S. OKA, J.

12th August, 2004.

P.C.:

1. Rule. Advocate for Respondent Nos. 1 to 5 waives service. Taken up for hearing forthwith.

2. The suit premises consists of 2 rooms admeasuring 200 sq.ft. situated at Lalbaug, Dr. Ambedkar Road, Bombay-12. The suit premises were requisitioned by the State Government under the Bombay

Land Requisition Act, 1948 (herein after referred to as the said Act). The Appellant being the State Government employee was allowed to occupy the suit premises. Prima-facie it appears that after the order of de-requisition was passed, due to some delay on the part of the State Government, the said order was not implemented. As a result, the Appellant continued to occupy the suit premises. Now the Appellant is claiming protection under the amended provisions of the said Act of 1948. Only a sum of Rs.43/- is being paid per month by the Appellant. If the Appellant is desirous of continuing in possession, he has to pay a reasonable amount by way of compensation to the Respondent Nos.4 and 5 subject to final result of the Appeal. In my view, considering the facts and circumstances of the case, the Appellant will have to pay a sum of Rs.400/- per month from 1st March, 2004 to the Respondent Nos. 4 and 5 till the final disposal of the Appeal.

3. Hence, Civil Application is dismissed by passing following order :

(i) The Appellant shall not be evicted from the suit premises till the final disposal of the Appeal subject to :

(a) The Appellant depositing in the Trial Court, a sum of Rs.400/- per month from 1st March, 2004 till 31st August,2004 within a period of four weeks from today.

(b) The Appellant depositing a sum of Rs. 400/- per month in the City Civil Court on or before the tenth day of every calendar month.

(ii) If the Appellant fails to pay the amounts as per clause (a) above, the interim relief will stand automatically vacated. In the event, the Appellant commits any two consecutive defaults in depositing sum of Rs.400/-p.m., Respondent Nos. 4 and 5 will be

entitled to apply to this court for vacating the interim relief.

(iii) As and when the amounts are deposited by the Appellant, liberty to Respondents Nos. 4 and 5 to withdraw the said amounts. It is made clear that deposit of the said amounts by the Appellant and withdrawal of the said amounts by the Respondents No. 4 and 5 shall be without prejudice to the rights and contentions of the parties and subject to final result of the Appeal.

(iv) Till the final disposal of the Appeal, the Appellant is restrained from creating any third party interests in respect of the suit premises and from parting with the possession of the suit premises to any third party.

(v) There will be no orders as to costs.

JUDGE